

1 AARON D. FORD
2 Attorney General
3 Sabrena K. Clinton (Bar No. 6499)
Deputy Attorney General
Office of the Attorney General
555 E. Washington Ave., Ste. 3900
4 Las Vegas, NV 89101
(702) 486-3420 (phone)
(702) 486-3768 (fax)

6 *Attorneys for State Defendants*

7 **UNITED STATES DISTRICT COURT**

8 **LAS VEGAS, NEVADA**

9 T. MATTHEW PHILLIPS, Next Friend of
D.M.P., a Minor

Case No. 2:22-cv-02086-RFB-BNW

10 Plaintiff,

11 v.

12 VINCENT OCHOA, STEVE WOLFSON,
JON NORHEIM, GERARD COSTANTIAN,
13 AMBER KORPAK, CLARK COUNTY,
14 EIGHTH JUDICIAL DISTRICT COURT

**JOINT STIPULATION TO STAY
DISCOVERY PENDING
RESOLUTION OF MOTIONS TO
DISMISS**

15 Defendants.

16 Pursuant to Local Rules LR 7-1 and IA 6-2, Plaintiff T. Matthew Phillips and
17 Defendants Vincent Ochoa, Jon Norheim, the Eighth Judicial District Court, Steve
18 Wolfson, Gerard Costantian, Amber Korpak, and Clark County, hereby stipulate and agree
19 to stay discovery, including initial disclosures, and a discovery plan and scheduling order,
20 in this case pending resolution of Defendants' motions to dismiss (ECF Nos. 7, 8, and 12).

21 The parties submit that good cause exists for this stipulation to be granted under
22 applicable law. Courts in the District of Nevada apply a two-part test when evaluating
23 whether a discovery stay should be imposed. *TradeBay, LLC v. Ebay, Inc.*, 278 F.R.D. 597,
24 600 (D. Nev. 2011) (citations omitted). First, the pending motion must be potentially
25 dispositive of the entire case or at least the issue on which discovery is sought. *Id.* Second,
26 the court must determine whether the pending motion to dismiss can be decided without
27 additional discovery. *Id.* When applying this test, the court must take a "preliminary peek"
28 at the merits of the pending dispositive motion to assess whether a stay is warranted. *Id.*

The purpose of the “preliminary peek” is not to prejudge the outcome of the motion to dismiss. Rather, the court’s role is to evaluate the propriety of an order staying or limiting discovery with the goal of accomplishing the objectives of Rule 1.

4 Defendants filed motions to dismiss premised on immunity (absolute judicial, quasi-
5 judicial, Eleventh Amendment), subject-matter jurisdiction under the *Rooker-Feldman*¹
6 doctrine, claim preclusion, and failure to state claims upon which relief could be granted.
7 While Plaintiff disagrees on the merits of Defendants' motions (*see* ECF Nos. 9, 14, 19), the
8 parties agree that the motions may be potentially dispositive of this case and can be decided
9 without discovery.

10 Counsel for the parties conferred on discovery obligations on April 3rd and 5th, 2023
11 before submitting this stipulation.

13 | DATED this _____ day of April, 2023.

14 STEVEN B. WOLFSON

DATED this day of April, 2023.

HUTCHINSON & STEFFEN

/s/ Scott R. Davis
Scott R. Davis (10019)
Stephanie A. Mazzei (11648)
500 S. Grand Central Pkwy., Suite 5075
Las Vegas, NV 89155-2215
Attorneys for Steve Wolfson, Gerard
Costantian, and Clark County

/s/ Shannon R. Wilson
Shannon R. Wilson (9933)
Todd W. Prall (9154)
10080 West Alta Drive, Suite 200
Las Vegas, NV 89145
Attorneys for Amber Korpak

ORDER

/// IT IS ORDERED that ECF No. 23 is GRANTED.

IT IS FURTHER ORDERED that, if necessary, the parties are to file a proposed Discovery Plan and Scheduling Order 14 days after the motions to dismiss are decided.

IT IS SO ORDERED
DATED: 1:55 pm, April 10, 2023

BRENDA WEKSLER
UNITED STATES MAGISTRATE

¹ *Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923); *D.C. Court of Appeals v. Feldman*, 460 U.S. 462 (1983).